Florida Board of Medicine
Surgical Care/Quality Assurance Committee
Meeting

Regency Hyatt
9801 International Drive
Orlando, FL 32819
(800) 233-1234

February 4, 2016

AGENDA

Roll call 3:56 p.m.

Members Present:	**Members Absent:**
James W. Orr, Jr., M.D., Chair	Sarvam TerKonda, M.D., Vice Chair
Enrique Ginzburg, M.D.	
Steven Rosenberg, M.D.	
Brigitte Goersch, Consumer Member	
Merle Stringer, M.D.	
Gary Dolin, M.D.	
Bernardo Fernandez, M.D.	

Staff Present:	**Others Present:**
Adrienne Rodgers, J.D., Interim Executive Director	American Court Reporting
Edward Tellechea, Esquire, Board Counsel	Suzette Bragg
Donna McNulty, Esquire, Board Counsel	425 Old Magnolia Road
Nancy Murphy, Certified Paralegal	Crawfordville, FL 32327
Crystal A. Sanford, CPM, Program Operations Administrator	(850) 421-0058

Rules Discussion:

Rule 64B8-9.009, F.A.C. - Standards for Office Surgery.....Tab 1

At the last meeting, the Board approved the proposed language for this rule. The proposed statement of estimated regulatory costs (SERC) was presented by Ms. Rodgers for the Committee's review and approval. She explained she looked at the resources that were available and that certain assumptions had to be made. She said she used the 2014 physician workforce survey to determine the number of affected physicians, took the number of physicians practicing in family medicine, dermatology, plastic surgery, pediatrics, and OB/GYN for the purpose of this analysis and reduced that total by the 30% who reported working in group practices. She also said she had been provided with the cost of the medications from one of the physicians, which cost was lower than the cost that staff had found just by going online. She explained to be on the safe side she used the higher cost.

Mr. Tellechea asked if the analysis was conducted over a five year period. Ms. Rodgers advised there were several factors affecting the final figure such as shelf life of the medication, usage and replacement of used medications. The assumption was made, based on average shelf life of the three drugs, to use a 4 year shelf life, and therefore the analysis did take 5-year costs into consideration. Mr. Tellechea suggested including the actual shelf life for each medication in the revised version.

Dr. Orr stated that he thought the number of physicians listed in the statement was low.

Dr. Rosenberg asked if Physician Assistants (PA) should be included in the count because there are PAs who work in remote locations from a physician's office and that could affect the number of people performing the procedures.

Dr. Orr's asked if urology and general surgery were included in the analysis.

Ms. Rodgers advised that urology was not a specialty included in the workforce survey. She said she agreed the number of physicians affected as reflected in the draft SERC was low but it was difficult to determine the actual number because, unless you are removing a certain amount of supernatant fat, level I procedures do not require registration.

Dr. Dolin was asked if he performed procedures in his office. He stated some were done in the office, but most were done in ambulatory surgery centers.

Ms. Rodgers stated she could do an informal survey of the specialty associations to get a better number of urologists, etc.

Mary Thomas, Esquire, with the Florida Medical Association (FMA), stated she would be happy to look at sending a survey to their members, but FMA did a survey for the medical records rule and it was not very successful.

Dr. Orr stated he was concerned with a conflict of interest because it was the FMA's language that was approved but if they could get us the numbers of practicing physicians the Board could make some assumptions for the analysis.

Ms. Thomas stated she would touch bases with the various societies to see what she could get and would correspond with Ms. Rodgers.

Chris Nuland, Esquire stated he may be able to capture a sampling of specialty societies that would be impacted by the rule through the various associations that he represents.

A motion was made, seconded, and carried unanimously to recommend tabling this until the next meeting.

Action taken: table until next meeting to revise the analysis based on the discussion

General Discussion:

Wrong Site Surgery .....Tab 2

At the last meeting, the Committee began reviewing wrong site surgery data to determine areas where the Board can assist physicians in avoiding wrong site surgeries. Dr. Orr stated there were

six or seven cases on tomorrow's discipline agenda and there appears to be a trending increase in wrong site surgeries.

Kimberly Smoak, representing the Agency for Health Care Administration (AHCA), stated she could get specific data regarding wrong site surgeries but she could not release the actual code 15 or adverse incident reports to the Board.

Dr. Orr, looking at the charts provided by Ms. Smoak, stated that there were more adverse incidents in ambulatory surgery centers than the Board was dealing with.

Ms. Goersch stated she would like to see the national statistics.

Dr. Fernandez asked Ms. Smoak how the Board could collaborate with ACHA so that responsibility for wrong site cases was distributed among all members of the surgical team.

Dr. Rosenberg asked if AHCA could do an analysis and identify any problems that could be resolved by Board action.

Dr. Fernandez elaborated and said data on trends and lessons that could be learned would help the collaboration between Boards.

Ms. Smoak stated she could probably do that and present the data but she would need to run it by her legal department. She said she would be happy to look at any suggestions the Board had to offer.

Dr. Ginzburg stated he wanted AHCA's data so it could be compared to the data that the Department of Health provided.

Ms. Goersch said it would be helpful to know why the wrong site occurred such as how many did not do a timeout, did the physician walk out of the room and come back in or any other action that may have caused the wrong site surgery.

Dr. Orr asked if AHCA levies fines.

Ms. Smoas stated that fines were levied against the specific healthcare facility, not against the practitioners. She said AHCA holds the facility responsible but does not have the authority to hold the healthcare practitioners responsible. She went on to say fines are levied if a hospital fails to report an adverse incident or fails to respond to deficiencies found during an inspection. She stated she would be happy to share their statutory authority to levy fines.

Dr. Orr stated he wanted a representative from the Board of Nursing at the next meeting. He said we needed all the players at the table at the same time.

Mr. Tellechea explained the Board of Nursing usually meets at the same time the Board of Medicine does and it might be difficult to make that happen.

Dr. Rosenberg said he wanted the Board of Osteopathic Medicine, the Board of Nursing, and AHCA included in the meeting.

Ms. Rodgers advised that April look good but the Board already had a joint meeting with the Board of Pharmacy at that meeting.

Action taken: gather additional data and get involved parties together for a meeting to discuss the issue

Questions from Risk Managers:
Rachelle Springer – Monitoring of Temperature/Nitrous Oxide.....Tab 3
Jennifer Benedict - Ketamine Infusions/ACLS Changes Regarding Vasopressin .....Tab 4

The Committee addressed tab three and four together.

Jennifer Benedict addressed the Committee on behalf of Ms. Springer who had questions for the committee regarding the monitoring of a patient's temperature during procedures, the use of ketamine, and the use of nitrous oxide for Level I procedures.

Mr. Tellechea advise the Committee not to respond to the question regarding ketamine because it was a scope of practice issue. He advised Ms. Benedict to file a complaint if she found someone doing something she felt was a violation.

Ms. Benedict went on to explain vasopressin was no longer being produced and requested it be removed from the list of required drugs for crash carts. She also said ACLS shows vasopressin is no longer required.

Dr. Ginzburg agreed saying there were other medications that he preferred to use rather than vasopressin. He did wonder if there were other medications on the crash cart that ACLS does not require. He asked Mr. Tellechea if this was an antitrust issue.

Mr. Tellechea stated if vasopressin was removed from the rule and not replaced, that was not an anti-trust issue.

A motion was made, seconded, and carried unanimously to recommend the language to remove vasopressin as a required drug, which language is to be presented at the next meeting, and to ask the Florida Society of Anesthesiology to provide input.

Ms. Benedict stated that in general anesthesia cases the patient's temperature is not being monitored every 15 minutes as listed on the standard case monitoring form, and it appeared there was no standard frequency for checking. She asked if a specific time period could be added to the rule.

Dr. Orr stated in the future if the risk managers bring forth questions like this, we need a Florida Society of Anesthesiology representative present as well.

Mr. Tellechea agreed that given the anti-trust concerns, the Board could no longer answer these types of questions without expert input. He stated that before making a decision, the Board needed to have backup data for making a record of how it arrived at its decision.

Ms. Benedict explained that Ms. Springer has a physician who is administering nitrous oxide as a Level I medication; however it is classified as a Level III medication. Dr. Orr stated the

physician has problems. Mr. Tellechea stated if the risk managers believe that someone is involved in the unlicensed practice of medicine they should file a complaint.

Action taken: none necessary

Other Questions:

Correspondence Received from Nemer Ahmad, RN, BSN.....Tab 5

Mr. Ahmad submitted a letter expressing concerns regarding the changes to the office surgery rule. He stated he was concerned with the change in the requirement for an emergency power source. He explained the old language required two hours and that was sufficient; however, the new language is vague and physicians are not using the proper backup emergency power source.

Dr. Orr stated the rule does not provide a time limit and it sounded like someone was making an interpretation of the Board's rule.

Mr. Tellechea explained the issue came up during discussion of amending the rule because two hours was not enough time to close a patient and the time necessary to close a patient depends on the procedure being performed. He said the rule was widened to account for that diversity and was written to allow the surgeon to use discretion in making that determination.

Dr. Orr advised Mr. Ahmad that if he knows someone is doing something inappropriate, he should file a complaint.

Ms. Goersch suggested sharing his information with the Board's inspectors and get their feedback. Ms. Benedict addressed the Committee and stated there were specific generators made for this purpose and when she goes into an office surgery facility she does test the generators.

Dr. Fernandez commended Mr. Ahmad for his courage to bring this forward and it was clear he cared about patients.

Dr. Dolin stated he was concerned with not specifying a time period and leaving it up to the surgeon's discretion.

Dr. Rosenberg asked what happens if there is a complication and two hours is not enough time to close the patient.

Action taken: none necessary

George M. Varkarakis, M.D. addressed the Committee next. He had concerns about the rule's requirement for having hospital privileges or a transfer agreement in place. He said the rule now allows the facility to have the transfer agreement, rather than requiring the individual physician to have an agreement.

Mr. Tellechea stated the rule was changed after being thoroughly discussed. The language regarding the transfer agreement was changed to allow the facility to have a transfer agreement and in addition, training requirements were increased.

Dr. Orr advised Dr. Varkarakis to file a complaint if he sees something inappropriate being done.

Action taken: none necessary

There being no further business, the meeting adjourned at 5:28 p.m.